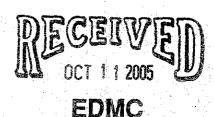


DEPARTMENT OF ECOLOGY

3100 Port of Benton Blvd • Richland, WA 99352 • (509) 372-7950

October 3, 2005

Mr. Dan Opalski, Director Office of Environmental Cleanup United States Environmental Protection Agency 1200 Sixth Avenue, ECL-117 Seattle, Washington 98101



Dear Mr. Opalski:

Re: Concurrence with the 221-U Facility, Canyon Disposition Initiative (CDI), Record of Decision (ROD)

The Washington State Department of Ecology (State) has reviewed and concurs with the 221-U Facility, Canyon Disposition Initiative, Record of Decision (ROD). As noted in the ROD, Section 2.10.8, the State of Washington supports the selected remedy. Without affecting the State's support for the selected remedy, the State notes the following in providing its concurrence:

Part of the remedial decision involves invoking a process under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to waive certain "applicable or relevant and appropriate" requirements of Washington's Dangerous Waste Regulations, Washington Administrative Code (WAC) 173-303-665, that relate to dangerous waste landfill minimum technical requirements. These requirements are part of the State's authorized hazardous waste program under Subchapter III of the Solid Waste Disposal Act (Resource Conservation and Recovery Act). The State notes that CERCLA § 120, which sets forth the limits of a waiver of sovereign immunity under CERCLA, provides that "Nothing in this section shall affect or impair the obligation of any department, agency, or instrumentality of the United States to comply with any requirement of the Solid Waste Disposal Act...(including corrective action requirements)," 42 U.S.C. § 9620(i).

To the State's knowledge, no court has determined whether this language limits the ability under CERCLA to waive a requirement of the Solid Waste Disposal Act (as reflected in an authorized state program) at a federal facility.

The State does not wish to test this issue in relation to the selected remedy. As indicated above, the State supports the selected remedy. This letter is to indicate that while the State supports the selected remedy, the State reserves all arguments in the future concerning the applicability of

Mr. Dan Opalski October 3, 2005 Page 2

requirements of the Solid Waste Disposal Act (and corresponding state law) under CERCLA § 120, particularly at a federal facility that is a permitted hazardous waste treatment, storage or disposal facility.

Harry Carlot Company of Fig. 5 Fig.

Section to a comment of the ch

and the first of the control of the

南京中国家政治、法院等等一辆行政区域的发展。

g (n. ewsperie) segul grant (n. seprementels et altrent a laberation et l'asset man

า การเกาะสดุบาร เพียง ของ จากใหม่ เสียงอย่าง และไม่มี เพียงอาการให้ เป็นเพื่อนให้เป็น ได้เรียงให้เป็นที่ เปลี่ยว (1) การสามารให้ (1) เพียง สุดยา คุณ ในเสียง (1) เลยเกาะสู่ จำนวน สามาชาย สุดย์และเลยสุดย์

ngagangan ang kalinggi panang galabah ing gagagaida sata mananangai tabah ing kalinga

aled a large algebra, stabilità solla di generali di la comita de comita di considera di sulla considera di co unity (A. Meganalges na janegade) en senden en ensite en ensite en et dictario de la companión de la companión

and the second control of the control of the figure of the control of the control of the second through the second

If you have any questions, please feel free to contact Rick Bond at (509) 372-7885 or Ron Skinnarland at (509) 372-7924.

Sincerely,

Michael Wilson

Nuclear Waste Program Manager

fwb/pll

Craig Cameron, EPA Cc:

Nick Ceto, EPA

Kevin Leary, USDOE-RL

Keith Klein, USDOE-RL The contribution of the co

Julie Robertson, FH

Stuart Harris, CTUIR

Gabriel Bohnee, NPT

Russell Jim, YN

Todd Martin, HAB

Ken Niles, ODOE

Administrative Record

Environmental Portal